

1832.502-4 Contract clauses.**1832.502-470 NASA contract clause.**

The contracting officer may insert a clause substantially as stated at 1852.232-82, Submission of Requests for Progress Payments, in fixed-price solicitations and contracts that provide for progress payments. The recipient of the requests and number of copies may be changed as required.

1832.503 Postaward matters.**1832.503-5 Administration of progress payments. (NASA supplements paragraph (c).)**

(c)(i) If the contractor requests it and the contracting officer approving individual progress payments agrees, the administration of progress payments may be based on the overall contract agreement. Under this method, the contractor must include a supporting schedule with each request for a progress payment. The schedule should identify the costs applicable to each order.

(ii) The contracting officer may treat a group of orders as a single unit for administration of progress payments if each order in the group is subject to a uniform liquidation rate and under the jurisdiction of the same payment office.

[65 FR 31102, May 16, 2000]

1832.504 Subcontracts. (NASA supplements paragraph (c))

(c) Unusual progress payments to subcontractors shall be approved in accordance with 1832.501-2.

Subpart 1832.7—Contract Funding**1832.702 Policy.****1832.702-70 NASA policy.**

(a) Cost-reimbursement contracts may be incrementally funded only if all the following conditions are met:

(1) The total value of the contract (including options as defined in FAR Subpart 17.2) is—

(i) \$500,000 or more for R&D contracts under which no supplies are deliverable; or

(ii) \$1,000,000 or more for all other contracts.

(2) The period of performance exceeds one year.

(3) The funds are not available to fund the total contract value fully at award.

(4) Initial funding of the contract is \$100,000 or more.

(b) Fixed-price contracts, other than those for research and development, shall not be incrementally funded.

(c)(1) Fixed-price contracts for research and development may be incrementally funded if the conditions of 1832.702-70(a)(1) through (4) are met and the initial funding of the contract is at least 50 percent of the total fixed price.

(2) Incrementally funded fixed-price contracts shall be fully funded as soon as adequate funding becomes available.

(d) Except for a modification issued to fully fund a contract, incremental funding modifications shall not be issued for amounts totaling less than \$25,000.

(e) Except for a modification issued to close out a contract, modifications deobligating funds shall not be issued for amounts totaling less than \$25,000.

(f) The procurement officer, with the concurrence of the installation Comptroller, may waive any of the conditions set forth in paragraphs 1832.702-70(a) through (e). The procurement officer shall maintain a record of all such approvals during the fiscal year.

(g) A class deviation from the conditions set forth in paragraphs 1832.702-70(a) through (e) exists to permit incremental funding of contracts under Phase II of the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs. This deviation exists with the understanding that the contracts will be fully funded when funds become available.

[67 FR 7619, Feb. 20, 2002]

1832.704 Limitation of cost or funds.**1832.704-70 Incrementally funded fixed-price contracts.**

(a) Upon receipt of the contractor's notice under paragraph (c)(1) of the clause at 1852.232-77, Limitation of Funds (Fixed Price Contract), the contracting officer shall promptly provide written notice to the contractor that the Government is—

National Aeronautics and Space Administration

1832.1004

(1) Allotting additional funds in a specified amount for continued performance;

(2) Terminating the contract; or

(3) Considering whether to allot additional funds; and

(i) The contractor is entitled to stop work in accordance with paragraph (b) of the clause at 1852.232–77, Limitation of Funds; and

(ii) Any costs expended beyond the amount specified in paragraph (a) of the clause at 1852.232–77, Limitation of Funds, are incurred at the contractor's risk.

(b) Upon determining that the contract will receive no further funds, the contracting officer shall promptly give notice of the Government's decision and terminate for the convenience of the Government.

1832.705 Contract clauses.

1832.705–2 Clauses for limitation of cost or funds.

1832.705–270 NASA clauses for limitation of cost or funds.

(a) The contracting officer shall insert the clause at 1852.232–77, Limitation of Funds (Fixed-Price Contract), in solicitations and contracts for fixed-price incrementally funded research and development.

(b) The contracting officer shall insert a clause substantially as stated at 1852.232–81, Contract Funding, in Section B of solicitations and contracts containing the clause at FAR 52.232–22, Limitation of Funds. Insert the amounts of funds available for payment, the items covered, and the applicable period of performance. The amount obligated for fee in paragraph (b) of the clause should always be sufficient to pay fee anticipated to be earned for the work funded by the amount in paragraph (a) of the clause.

Subpart 1832.9—Prompt Payment

1832.908 Contract clauses. (NASA supplements paragraph (c).)

(c)(2) When the clause at FAR 52.232–25, Prompt Payment, is used in such contracts with the Canadian Commercial Corporation (CCC), insert “17th” in

lieu of “30th” in paragraphs (a)(1)(i)(A), (a)(1)(i)(B), and (a)(1)(ii).

[64 FR 5621, Feb. 4, 1999, as amended at 67 FR 30604, May 7, 2002]

Subpart 1832.10—Performance-Based Payments

1832.1001 Policy.

(a)(i) In determining whether performance-based payments are practical in competitive negotiated acquisitions, the contracting officer should consider the procedural impacts (*e.g.*, proposal evaluation complications, longer evaluations, elimination of the potential for award without discussions, increased proposal information requirements) and the impact on small business competitiveness.

(ii) The contracting officer must obtain approval from the Director of the Headquarters Office of Procurement Contract Management Division (Code HK) to use performance-based payments in competitive negotiated solicitations under \$50M. The request for approval must include an assessment of the practicality of using performance-based payments, as well as the proposed performance-based payments evaluation approach (see 1832.1004(e)(1)(ii)).

[65 FR 31102, May 16, 2000]

1832.1004 Procedures.

(a) See 1815.201(c)(6)(E) for establishing performance bases and payment terms in competitive negotiated acquisitions.

(e)(1)(ii) Use of the price adjustment evaluation technique may require obtaining and analyzing proposal information that is normally not required in NASA firm-fixed-price competitions (see 1815.403–3). When using performance-based payments in competitive negotiated acquisitions under \$50 million, contracting officers should consider the use of alternative evaluation methods, *e.g.*, qualitative evaluation under Mission Suitability or another appropriate factor.

[65 FR 31103, May 16, 2000]